

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARSHA LANE JEWELL,

No. C 10-04639 CW

Plaintiff,

ORDER GRANTING IN
PART DEFENDANT'S
MOTION TO DISMISS

v.

(Docket No. 4)
AND SUA SPONTE
REMANDING ACTION
TO STATE COURT

BARCLAYS CAPITAL REAL ESTATE, INC.
d/b/a HOMEQ SERVICING,

Defendant.

In this action removed from Contra Costa County Superior Court, Defendant Barclays Capital Real Estate, Inc. d/b/a HomeEq Servicing moves to dismiss the complaint of Plaintiff Marsha Lane Jewell. Defendant seeks dismissal with prejudice. Plaintiff, who is represented by counsel, does not oppose the motion with respect to her claims under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692, et seq., or the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. §§ 2601, et seq. Accordingly, Defendant's motion is GRANTED in part. Plaintiff's FDCPA and RESPA claims are dismissed with prejudice.

Defendant removed this action pursuant to the Court's federal question jurisdiction, 28 U.S.C. § 1331. See Notice of Removal of Action ¶¶ 8-10. Because Plaintiff's claims under federal law are dismissed, no federal claim remains in her suit and, as a result, the exercise of supplemental jurisdiction over her remaining state law claims is no longer necessary. 28 U.S.C. § 1367(c)(3).

This action was removed in its early stages, and no factors weigh in favor of the Court exercising supplemental jurisdiction

1 over Plaintiff's state law claims. Thus, the Court declines to do
2 so and sua sponte remands her action to Contra Costa County
3 Superior Court. Harrell v. 20th Century Ins. Co., 934 F.2d 203,
4 205 (9th Cir. 1991) (stating that, after dismissal of all federal
5 claims in an action, "it is generally preferable for a district
6 court to remand remaining pendent claims to state court") (citing
7 Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7 (1988)).

8 IT IS SO ORDERED.

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10 Dated: January 13, 2011



11 CLAUDIA WILKEN
12 United States District Judge
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